S.B.CIVIL WRIT PETITION NO.3101/2007
(Jamana Lal Vyas Vs. State of Rajasthan & ors.)

DATED: 11.07.2007

HON'BLE MR.JUSTICE DINESH MAHESHWARI

Mr.Rakesh Arora for the petitioner

Grievance of the petitioner in this writ petition is that though he retired from the post of School Lecturer (English) on 30.04.2004, his pension case was finalised only in the month of July, 2004 and the amount of gratuity and commutation was paid only on 08.07.2004, that of GPF on 22.07.2004 and there had been further delays in payment concerning the amount of State Insurance etc. According to the petitioner, retiral benefits were paid after a delay of about two months squarely for the fault of the Department concerned; and hence, he served a notice on the respondents on 22.11.2005 for making payment of interest on due amount for delayed payment but the respondents have failed to make payment of the amount of interest.

While relying on sub-rule (1) of Rule 89 of the Rajasthan Civil Services (Pension) Rules 1996 as amended on 07.06.2004, the petitioner contends that when there is delay in making payment of the retiral benefits and the delay is on the part of the Department/Government, then the

employee is entitled for interest at the rate of 9% per annum from the date the benefits became due. By way of this writ petition, the petitioner has prayed for the relief of directions against the respondents for making payment of interest to him to the tune of Rs.20,456/- on account of delayed payment of retiral benefits with further interest on the said amount at the rate of 9% per annum.

It has been strenuously contended during the course of submissions that finalization of the pension case of the petitioner and payment of retiral benefits got delayed only for the Department concerned misplacing the papers and there was no fault on the part of the petitioner and there is no reason why the petitioner be denied interest on the due amount for admitted delay in payment. Learned counsel for the petitioner has referred the decisions of this Court in the case of Dr.Ratan Lal Mathur Vs. State and others: 1998 (1) WLC (Rajasthan) 264 and Smt.Usha Rani Vs. State of Rajasthan & others: 1998 (3) WLC (Rajasthan) 758.

The cases referred by learned counsel for the petitioner have no application to the facts of the case nor support the contentions urged. The guidelines as laid down by this Court in Dr.Ratan Lal Mathur's case (supra) for the purpose of disposal of pension cases have since been incorporated as a part of the rules; and in the present case, it does not appear that the

respondents have chosen to unnecessarily delay the matter. In Usha Rani's case (supra), pension case of the petitioner was not finalised for more than 10 years and such is not the case here.

The petitioner retired on 30.04.2004; and from the letter dated 02.07.2004 issued by the Joint Director, Pension and Pensioners' Welfare Department it appears that pension case of the petitioner was finalised on 14.06.2004 and necessary orders were issued. The petitioner imputes delay thereafter for misplacing of the papers but then, he was yet supplied with duplicate on 02.07.2004. It does not appear to be a case of wanton unconcern on the part of the respondents in dealing with the pension case of the petitioner.

Rule 89(1) relied upon by the petitioner reads thus:

> "If the payment of retiral benefits has been authorised after 60 days from the date when its payment became due, and it is established that the delay in payment was not on account of failure on the part of the Government servant in compliance of the procedure laid down in this chapter or elsewhere in these rules interest @ 9% per annum from the date retiral benefits become due would be payable till the end of the month proceeding the month in which the retiral benefits are authorised."

It is obvious that for the purpose of any entitlement under the said rule, it is required to be established that payment of retiral benefits has not been authorised within 60

days from the date it became due; and that delay in payment was not account of failure on the part of government servant in compliance of the necessary procedure.

In the face of the averments taken in the writ petition and the documents annexed, in the first place, it does not appear that the payment of retiral benefits was not authorized within 60 days of its becoming due. Secondly, ascertaining the cause of delay in actual receipt of payment by the petitioner after his case was finalised on 14.06.2004 necessarily involves enquiry into disputed questions of fact. This Court does not feel persuaded to enter into such disputed questions of fact in this writ petition filed only on 17.04.2007 for claiming interest in relation to the payments made as back as in the month of July and August 2004 particularly when the petitioner served a notice under Section 80 CPC on 22.11.2005 and reply thereto was also sent by the respondents as back as on 02.12.2005 and 31.01.2006 (Annex.8 & Annex.9 respectively).

The writ petition fails and is, therefore, dismissed summarily.

(DINESH MAHESHWARI),J.

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